

## REMARKS/ARGUMENTS

Claims 1-18 are pending in the application. Reconsideration in view the following remarks is respectfully requested. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singh, US Patent #6,405,035 and in view of Lemelson et al., US Patent #6,028,514. Claims 1, 12, and 13 are amended to correct minor clerical error.

Applicants respectfully submit that nowhere in the cited references is the disclosure, teaching or suggestion of: “[a] method for forwarding messages, comprising: monitoring locations of responses to incoming messages along with the time of day and day of week; storing each response along the associated time of day and day of week in a database; performing a statistical trend analysis on a user bases to determine a probability of contacting the user for a given time of day and day of week at a given location; storing in a trend analysis table the result of the statistical trend analysis performed; and transferring incoming messages to the location in the trend analysis table with the highest probability of contacting the user” (e.g., as described in claim 1).

Applicants agree with the Office Action’s determination that Singh’s invention differs from the claimed invention that it does not monitor the response to the message. The Office Action further asserts that Lemelson teaches an invention for monitoring a person’s location, where a monitor checks for responses to paged messages (Column 16, line 53 – Column 17, line 14 which state:

This paging signal is intended to illicit a response from emergency assistance/response personnel that may be in the vicinity or area of the warning unit 12 that issued the original distress message. As indicated in FIG. 5B, *the monitor center 10 checks for responses to the paging message at unit block 206*. If no response to the page is received after a designated time, a check is made to see whether or not "M" paging messages have yet been sent at block 208. If the pre-determined "M" number of tries have not been made, control is passed to unit 12 at block 210 and "K" is increased by one with control being passed back to the broadcast emergency assistance page block 204 for

retransmission of the emergency assistance/response paging message. *The retransmission continues until either a response is received at block 206 or a total of "M" tries have been made as indicated in FIG. 5B.* If a response is received, control is passed to block 216 to confirm that emergency assistance/response is en-route to the location of the emergency. Returning now to block 208, if after "M" attempts, no response is received to the broadcast emergency assistance/response page, control is passed to dispatch back-up assistance/response block 212 where assistance/response is dispatched even though it may take longer to reach the location of the warning unit 12 than it would have if responded to at the time the alarm message was originated. Attempts to contact back-up assistance/response are continued (i.e. control loops to block 212) until a response message is received at block 214 from emergency personnel. *(Emphasis added)*

Also, column 3 line 18-23 of Singh state

Subscriber agents 19 monitor the message status of each subscriber message *including receipt, storage, and access of messages within each of their respective devices* 16. Subscriber agent 19 further signals the information to the master agent 21. Master agent 21 monitors the status of each of the messages on each device 16 and ensures redundant messages are not accessed. *(Emphasis added)*

The Office Action states that "it would have been obvious to one of ordinary skill at the time of the invention was made to combine the inventions of Singh and Lemelson and monitor the response of the incoming message because monitoring the response will improve Singh's invention . . .". Applicants respectfully dissent.

As can be seen from the above cited section of Lemelson, the reference is intended to disclose the ability of "...*the monitor center 10 [to check] for responses to the paging message at unit block 206*". However, he cited sections of Lemelson do not specifically disclose "...*monitoring locations of responses to incoming messages along with the time of day and day of week*", as specifically recited in independent claim 1.

Support can be found at line 15 of page 5 of the specification, which states:

An incoming message may be in the form of a telephone call, a pager signal, an e-mail, a fax, or any other form of voice, video, or digital data. If no incoming message has arrived then processing loops back to operation 210 until such a message does arrive. However, if such a message does arrive then processing proceeds to operation 220. In operation 220, the response provided by the user to this message is noted along with the

time of day, day of the week, and location for the response. Thereafter, in operation 230 the location as well as the time of day and day of week for the response are stored in database 50, shown in FIG. 5. Contrary to the Office Action's assertion, merely monitoring for a response to a paged message is not the equivalent of monitoring a locations of the responses.

Similarly, the cited sections of Singh disclose "monitor[ing] the message status of each subscriber message including *receipt, storage, and access of messages within each of their respective devices 16*". Again, Singh does not specifically disclose the "...*monitoring locations of responses to incoming messages...*" as specifically recited in independent claim 1.

Therefore, it is clear that neither the Singh nor Lemelson reference teach, suggest or disclose a method for forwarding messages including at least monitoring locations of responses to incoming messages along with the time of day and day of week.

In addition and in the alternative, Applicants respectfully submit that there is no suggestion or motivation to combine Singh and Lemelson beyond the impermissible use of hindsight. Applicants submit that a *prima facie* case of obviousness has not been made. The MPEP requires that the references must suggest making the combinations. MPEP §2141.01 (citing *Hodosh v. Block Drug Co., Inc.*); §706.02(j) (the initial burden is on the examiner to provide a convincing line of reasoning with explicit or implicit suggestions to combine references).

Merely stating that it would have been obvious for a person of ordinary skill in the art to combine references, without pointing to a specific hint or suggestion to combine, has been rejected by the Federal Circuit, as an invalid basis of rejection under

35 U.S.C. §103. *In re Lee*, 277 F.3d 1338, 1343 (Fed. Cir. 2002)(the court held that rejecting a conclusory statement that it would have been obvious to combine the references without evidence of a teaching, motivation, or suggestion to select and combine the references, citing numerous case); *In re Dembiczak*, 175 F.3d 994,999 (Fed. Cir. 1999) (“Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.”) In this case, the Office Action has taken the concept of “responses to paged messages” allegedly disclosed in Lemelson and combined it in an ad hoc fashion to Singh form the basis of its rejection. However, there is no teaching, suggestion or motivation to combine to be found in the references that adequately form the basis of a proper 35 U.S.C. §103(a) rejection of independent claim 1. Independent claims 1, 7, and 13 contain substantively similar limitations and therefore are also allowable for similar reasons. Claims 2-6, 8-12 and 14-18 depend from allowable independent claims 1, 7, and 13, and therefore are in condition for allowance as well.

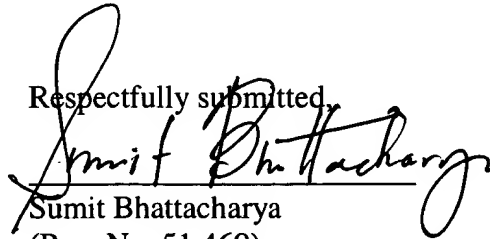
For at least all the above reasons, the Applicants respectfully submit that this application is in condition for allowance. A Notice of Allowance is earnestly solicited.

The Examiner is invited to contact the undersigned at (408) 975-7500 to discuss any matter concerning this application. The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. **11-0600**.

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By:

Respectfully submitted,



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